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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,287	01/22/2004	Blair J. Poirier	24004	3214
26975	7590	10/19/2004	EXAMINER	
MARIO D. THERIAULT 812 HWY. 101 NASONWORTH FREDERICTON, NB E3C 2B5 CANADA			CHAMBERS, A MICHAEL	
			ART UNIT	PAPER NUMBER
			3753	

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/761,287

Applicant(s)

POIRIER, BLAIR J.

Examiner

A. Michael Chambers

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 01/22/04
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

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### DETAILED ACTION

1. This application has been examined. This application is a continuation-in-part (C-I-P) of serial number 10/098,539, filed March 18, 2002, now US Patent number 6,705,344 issued March 16, 2004. The claims of the instant application are drawn to Figures 16 and 17. Applicant is asked to maintain a clear line of demarcation between the subject matter of the instant application and the parent application. Claims 1-20 are pending.

### *Claim Rejections - 35 USC § 101*

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1 and 11 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1 and 11 of applicant's prior U.S. Patent No. 6,705,344. This is a double patenting rejection.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 5-12, and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Poirier (6,062,259). In particular note water main 20, branch pipe 22 and a water circulation system including a pump 70. A fire hydrant in the system is disclosed in column 4, lines 43.

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Standard fire hydrants include a butterfly valve and no reference is deemed necessary (claim 20).

A pair of shut-off valves 60, 62 are shown. A recirculation conduit 94 substantially smaller in diameter is shown. A branch valve 40 is shown. A U-shaped flow path (claim 19) is shown.

Flushing (i.e., reverse circulation) is disclosed in column 4, lines 47+.

### *Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 148 USPQ 459, that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or unobviousness.

8. Claims 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Poirier in view of Yamagata et al. Poirier discloses the claimed invention except for the recitation of a filter in the system of Poirier as taught by Figure 3 of Yamagata et al. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Poirier to include a filter, as taught by Yamagata in order to provide a more fluid for the system of Poirier.

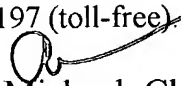
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9. Claims 13-18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Poirier in view of Yamagata et al. Poirier discloses the claimed invention except for the recitation of a filter in the system of Poirier as taught by Figure 3 of Yamagata et al. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Poirier to include a filter, as taught by Yamagata in order to provide a more fluid for the system of Poirier.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to A. Michael Chambers whose telephone number is 703-308-1016. The examiner can normally be reached on Mon-Thur. 6:30am-5:00pm.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Mancene can be reached on 703-308-2696. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
A. Michael Chambers  
Primary Examiner  
Art Unit 3753

amc  
October 15, 2004